

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27

BUREAU OF REAL ESTATE  
P. O. Box 137007  
Sacramento, CA 95813-7007

Telephone: (916) 263-8670  
Fax: (916) 263-3767

**FILED**

JAN 20 2017  
BUREAU OF REAL ESTATE  
By B. Nicholas

BEFORE THE BUREAU OF REAL ESTATE  
STATE OF CALIFORNIA

\*\*\*

In the Matter of the Accusation of	)	
	)	NO. H-11991 SF
REAL ESTATE MANAGEMENT	)	
SERVICE, INC. and	)	
MICHAEL LEE CARLSON,	)	
	)	<u>STIPULATION AND AGREEMENT IN</u>
	)	<u>SETTLEMENT AND ORDER</u>
Respondents.	)	
	)	

It is hereby stipulated by and between Respondents REAL ESTATE MANAGEMENT SERVICE, INC. (REMS) and MICHAEL LEE CARLSON (CARLSON), (Respondents), and the Complainant, acting by and through Richard K. Uno, Counsel for the Bureau of Real Estate (Bureau), as follows for the purpose of settling and disposing of the Accusation filed on July 22, 2016, in this matter:

- All issues which were to be contested and all evidence which was to be presented by Complainant and Respondents at a formal hearing on the Accusation, which hearing was to be held in accordance with the provisions of the Administrative Procedure Act (APA), shall instead and in place thereof be submitted solely on the basis of the provisions of this Stipulation and Agreement In Settlement and Order (Stipulation).

1                   2.     Respondents have received, read and understand the Statement to  
2 Respondent, the Discovery Provisions of the APA and the Accusation filed by the Bureau in  
3 this proceeding.

4                   3.     Respondents filed a Notice of Defense pursuant to Section 11505 of the  
5 Government Code for the purpose of requesting a hearing on the allegations in the Accusation.  
6 Respondents hereby freely and voluntarily withdraw said Notice of Defense. Respondents  
7 acknowledge that Respondents understand that by withdrawing said Notice of Defense,  
8 Respondents will thereby waive Respondents' right to require the Real Estate Commissioner  
9 (Commissioner) to prove the allegations in the Accusation at a contested hearing held in  
10 accordance with the provisions of the APA and that Respondents will waive other rights  
11 afforded to Respondents in connection with the hearing such as the right to present evidence in  
12 defense of the allegations in the Accusation and the right to cross-examine witnesses.

13                  4.     This Stipulation is based on the factual allegations contained in the  
14 Accusation. In the interest of expedience and economy, Respondents choose not to contest these  
15 factual allegations, but to remain silent and understand that, as a result thereof, these factual  
16 statements will serve as a prima facie basis for the "Determination of Issues" and "Order" set  
17 forth below. The Commissioner shall not be required to provide further evidence to prove such  
18 allegations.

19                  5.     This Stipulation and Respondents' decision not to contest the Accusation  
20 are made for the purpose of reaching an agreed disposition in this proceeding and are expressly  
21 limited to this proceeding and any other proceeding or case in which the Bureau, the state or  
22 federal government, an agency of this state, or an agency of another state is involved.

23                  6.     It is understood by the parties that the Commissioner may adopt this  
24 Stipulation as his decision in this matter, thereby imposing the penalty and sanctions on  
25 Respondents' real estate licenses and license rights as set forth in the "Order" below. In the  
26 event that the Commissioner in his discretion does not adopt this Stipulation, it shall

27 ///



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27

ORDER

I. AS TO RESPONDENT MICHAEL LEE CARLSON

1. All licenses and licensing rights of Respondent CARLSON under the Real Estate Law are suspended for a period of sixty (60) days from the effective date of this Stipulation; provided, however, that:

a. Thirty (30) days of said suspension shall be stayed, upon the condition that Respondent CARLSON petitions pursuant to Section 10175.2 of the Code and pays a monetary penalty pursuant to Section 10175.2 of the Code at a rate of \$50.00 for each day of the suspension for a total monetary penalty of \$1,500.00.

i. Said payment shall be in the form of a cashier's check made payable to the Bureau of Real Estate. Said check must be delivered to the Bureau of Real Estate, Flag Section at P.O. Box 137013, Sacramento, CA 95813-7013, prior to the effective date of this Order.

ii. No further cause for disciplinary action against the Real Estate licenses of Respondent CARLSON occurs within two (2) years from the effective date of the Stipulation in this matter.

iii. If Respondent CARLSON fails to pay the monetary penalty as provided above prior to the effective date of this Stipulation, the suspension shall go into effect automatically.

iv. If Respondent CARLSON timely pays the monetary penalty and any other moneys due under this Stipulation; and if no further cause for disciplinary action against the real estate license of Respondent CARLSON occurs within two (2) years from the effective date of this Stipulation, the entire stay hereby granted pursuant to this Stipulation, as to CARLSON only, shall become permanent.

2. The remaining thirty (30) days of said suspension shall also be stayed for two (2) years upon the following terms and conditions:

a. Respondent CARLSON shall obey all laws, rules and regulations

1 governing the rights, duties and responsibilities of a real estate licensee in the State of  
2 California; and,

3 b. That no final subsequent determination be made, after hearing or  
4 upon stipulation, that cause for disciplinary action occurred within two (2) years from the  
5 effective date of this Stipulation. Should such a determination be made, the Commissioner  
6 may, in his discretion, vacate and set aside the stay order and reimpose all or a portion of the  
7 stayed suspension. Should no such determination be made, the stay imposed herein shall  
8 become permanent.

9 3. All licenses and licensing rights of CARLSON are indefinitely suspended  
10 unless or until Respondent provides proof satisfactory to the Commissioner, of having taken and  
11 successfully completed the continuing education course on trust fund accounting and handling  
12 specified in paragraph (3) of subdivision (a) of Section 10170.5 of the Business and Professions  
13 Code. Proof of satisfaction of this requirement includes evidence that respondent has  
14 successfully completed the trust fund account and handling continuing education course within  
15 120 days prior to the effective date of the Decision in this manner.

16 II. AS TO BOTH RESPONDENTS REAL ESTATE MANAGEMENT SERVICE,  
17 INC. AND MICHAEL LEE CARLSON

18 1. Pursuant to Section 10148 of the Code, Respondents shall jointly and  
19 severally pay the sum of \$1,822.64 for the Commissioner's cost of the audit which led to this  
20 disciplinary action. Respondents shall pay such cost within sixty (60) days of receiving an  
21 invoice therefore from the Commissioner. Payment of audit costs should not be made until  
22 Respondents receive the invoice. If Respondents fail to satisfy this condition in a timely manner  
23 as provided for herein. Respondents' real estate licenses shall automatically be  
24 suspended until payment is made in full, or until a decision providing otherwise is adopted  
25 following a hearing held pursuant to this condition.

26 2. Pursuant to Section 10148 of the Code, Respondents shall jointly and  
27 severally pay the Commissioner's reasonable cost, not to exceed \$2,278.30, for an audit to

1 determine if Respondents have corrected the violation(s) found in the "Determination of Issues".  
2 In calculating the amount of the Commissioner's reasonable cost, the Commissioner may use the  
3 estimated average hourly salary for all persons performing audits of real estate brokers, and shall  
4 include an allocation for travel time to and from the auditor's place of work. Respondents shall  
5 pay such cost within sixty (60) days of receiving an invoice therefore from the Commissioner.  
6 Payment of the audit costs should not be made until Respondents receive the invoice. If  
7 Respondents fail to satisfy this condition in a timely manner as provided for herein,  
8 Respondents' real estate licenses shall automatically be suspended until payment is made in full,  
9 or until a decision providing otherwise is adopted following a hearing held pursuant to this  
10 condition.

11  
12 11/7/16  
13 \_\_\_\_\_  
14 DATED

15 \_\_\_\_\_  
16 *Richard K. Uno*  
17 Richard K. Uno, Esq., Counsel  
18 Bureau of Real Estate

19 \* \* \*

20 I have read the Stipulation and Order in Settlement and Order and its terms are  
21 understood by me and are agreeable and acceptable to me. I understand that I am waiving  
22 rights given to me by the California Administrative Procedure Act (including but not limited to  
23 Sections 11506, 11508, 11509, and 11513 of the Government Code), and I willingly,  
24 intelligently, and voluntarily waive those rights, including the right of requiring the  
25 Commissioner to prove the allegations in the Accusation at a hearing at which I would have the  
26 right to cross-examine witnesses against me and to present evidence in defense and mitigation  
27 of the charges. Respondents can signify acceptance and approval of the terms and conditions of  
this Stipulation and Order by faxing a copy of the signature page, as actually signed by  
Respondents, to the Bureau at fax number (916) 263-3767. Respondents agree, acknowledge  
and understand that by electronically sending to the Bureau a fax copy of Respondents' actual  
signatures as they appear on the Stipulation and Order, that receipt of the faxed copy by the

1 Bureau shall be as binding on Respondents as if the Bureau had received the original signed  
2 Stipulation and Order.

3 Nov 4, 2016  
4 DATED

M L Carlson  
REAL ESTATE MANAGEMENT SERVICE,  
INC., Respondent  
By MICHAEL LEE CARLSON,  
Designated Officer

6  
7 Nov 4, 2016  
8 DATED

M L Carlson  
MICHAEL LEE CARLSON,  
Respondent

9 \* \* \*

10  
11 The foregoing Stipulation and Agreement In Settlement and Order is hereby  
12 adopted by me as my Decision in this matter as to Respondents REAL ESTATE  
13 MANAGEMENT SERVICE, INC. and MICHAEL LEE CARLSON, and shall become  
14 effective at 12 o'clock noon on **FEB 10 2017**

15  
16 IT IS SO ORDERED 1/16/2017

17  
18 WAYNE S. BELL  
19 REAL ESTATE COMMISSIONER

20 Wayne S. Bell  
21  
22  
23  
24  
25  
26  
27